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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,215	10/15/2003	Mary G. Dowling	CISCO-8437 (032590-224)	8067
47654 7590 12/18/2008 BAINWOOD HUANG & ASSOCIATES LLC 2 CONNECTOR ROAD WESTBOROUGH, MA 01581				
EXAMINER				
WILSON, ROBERT W				
ART UNIT		PAPER NUMBER		
2419				
MAIL DATE		DELIVERY MODE		
12/18/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/687,215

Applicant(s)

DOWLING, MARY G.

Examiner

ROBERT W. WILSON

Art Unit

2419

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1 and 58-129.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Robert W Wilson/
Primary Examiner, Art Unit 2419

Continuation of 11, does NOT place the application in condition for allowance because: The examiner respectfully disagrees with the applicant's argument that Backes does not teach: determining whether any of the candidate devices is qualified to join the cluster by applying qualification rules to the discovery packet received from the candidate devices. Backes teaches: determining whether any of the candidate devices is qualified to join the cluster by applying qualification rules to the discovery packet received from the candidate devices (BPDU are evaluated from the bridges or candidate devices in order to determine which bridges will be designated as daughter bridge and which bridge will be designated as a root or designated bridge. All bridges which do not have the lowest path cost are qualified to be daughter bridges per col. 5 line 1 to col. 9 line 62) In essence bridges which do not have the lowest costs paths (applying qualification rule) are qualified to join as daughter bridges. The examiner respectfully disagrees with the applicant's interpretation of already in a network as teaching away from qualified to join. The nodes are tested to determine if they are qualified to join as daughter bridges. The applicant has failed to meet the burden of showing a specific paragraph in Backes which specifically teaches away from being qualified to join a network. The examiner respectfully disagrees with the applicant's argument that Backes does not teach: transmitting the information in the neighbor device data base to the commander network device when the candidate network device is added to the cluster. Backes teaches: transmitting the information in the neighbor device data base to the commander network device when the candidate network device is added to the cluster (message of information can be transmitted to the designated root or command by a bridge once it has been added to the spanning tree of cluster per col. 5 line 1 to col. 9 line 62) all communication with the network devices in the cluster being through a single network address assigned to the commander network device (All communication from the bridges to the root bridge is sent to the root bridge which has a unique identifier per col. 5 lines 19 to line 50) Again applicant argues that the reference teaches away. Please refer to the previous argument relative examiner response. The examiner respectfully disagrees with the applicant's argument that Backes does not teach "transmitting the info...when device added to the cluster. Backes teaches: information message is transmitted to designated bridge upon bridge being added which examiner has interpreted as transmitting info... when bridge has been added. Consequently, the examiner finds applicant's argument unpersuasive.